

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HORACE HILL, JR.,

Plaintiff,

v.

JOSEPHINE C. TOWNSEND, *et al.*,

Defendants.

Case No. C23-5878-RSL-SKV

ORDER ADOPTING
REPORT AND
RECOMMENDATION

This matter comes before the Court on the report and recommendation of Magistrate Judge S. Kate Vaughan (Dkt. # 12). The Court, having reviewed the Report and Recommendation, objections to the report and recommendation (Dkt. # 13), and the remaining record, orders the following:

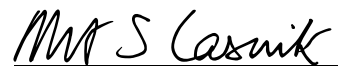
- (1) The Court adopts the Report and Recommendation. However, the Court concludes that plaintiff's claims against his defense attorney, Josephine C. Townsend, warrant dismissal with prejudice. *Polk County v. Dodson*, 454 U.S. 312, 325 (1981) ("a public defender does not act under color of state law when performing a lawyer's traditional functions as counsel to a defendant in a criminal proceeding."); *Briley v. California*, 564 F.2d 849, 855 (9th Cir. 1977) (privately retained attorneys do not act under color of law for purposes of § 1983 liability);
- (2) Plaintiff's remaining claims against Michael Frank and Kenneth Hess are dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b)(1), for failure to state a claim

1 upon which relief may be granted under 42 U.S.C. § 1983. This dismissal shall count
2 as a strike under 28 U.S.C. § 1915(g);

3 (3) The Clerk is directed to send a copy of this order to the parties and to Judge Vaughan.
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5 IT IS SO ORDERED.
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7 DATED this 29th day of April, 2024.
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12 Robert S. Lasnik
13 United States District Judge
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